

1 JOHN L. KRIEGER (Nevada Bar No. 6023)
2 JKrieger@LRLaw.com
3 LEWIS AND ROCA LLP
3993 Howard Hughes Parkway, Suite 600
3 Las Vegas, Nevada 89169
4 (702) 949-8200
4 (702) 949-8365 (fax)

5 ERIC SOMMERS
6 (*Admitted Pro Hac Vice*)
6 SOMMERS LAW, PLLC
7 600 State Street, Suite 1
7 Portsmouth, New Hampshire 03801
8 (603) 570-4854

9 Attorneys for Herb Reed Enterprises, Inc.,
9 Herb Reed Enterprises, LLC and Herbert Reed

10 UNITED STATES DISTRICT COURT

11 DISTRICT OF NEVADA

12
13 HERB REED ENTERPRISES, INC., a Delaware
14 company; HERB REED ENTERPRISES, LLC,
15 a Massachusetts company; and HERBERT
REED, an individual,

16 Plaintiff,
17 v.

18 JEAN BENNETT, an individual; FIVE
19 PLATTERS, INC., a California corporation; and
PERSONALITY PRODUCTIONS, INC., a
20 Nevada corporation

21 Defendants

CASE NO: 2:10-CV-01981-JCM-RJJ

**DEFAULT JUDGMENT AND
PERMANENT INJUNCTION**

22 This matter having come before the Court on plaintiffs Herb Reed Enterprises, Inc. Herb
23 Reed Enterprises, LLC, and Herbert Reed's Motion for Default Judgment and the court having
24 granted the motion, therefore,

25 **IT IS HEREBY ORDERED, ADJUGED AND DECREED** that

26 A. That Defendants Five Platters Inc. and Personality Production have never
27 used the mark "The Platters" in a manner that is not false and misleading and thus never
28 acquired common law rights to the mark and cannot assert that they have.

1 B. Herbert Reed, having first used the mark “The Platters” in commerce in
2 1953, and having continuously used the mark in commerce since then has superior rights to
3 the mark to all others, including Five Platters, Inc. and Personality Productions, Inc., and
4 anyone claiming rights from or through them.
5

6 **IT IS FURTHER ORDERED, ADJUGED AND DECREED** that Defendants Five
7 Platters, Inc. (“FPI”) and Personality Productions, Inc. (“PPI”), their agents, servants,
8 representatives, licensees, affiliates, successors, assigns, attorneys, partners, officers, employees,
9 successors, and assigns of each and all persons, firms, or corporations in active concert of
10 participation with any of them, are immediately and permanently enjoined, anywhere in the world,
11 directly or indirectly, as follows:

12 A. From using the name “The Platters” or any other name referring to or
13 including the word “Platter” or “Platters” and any other name or names confusingly similar
14 or derivative thereof;

16 B. From licensing, claiming to have licensed, otherwise purporting to grant, or
17 have granted, any rights to any person or entity to engage in any live musical performance
18 or related entertainment using the name “The Platters,” “The Buck Ram Platters,” “The
19 Platters Featuring (the name of any person(s) or entity(ies))” or any other name or names
20 confusingly similar or derivative thereof;

22 C. From causing, aiding, or assisting any person or entity to engage in any live
23 musical performance or related entertainment service using the name “The Platters,” “The
24 Buck Ram Platters,” “The Platters Featuring (the name of any person(s) or entity(ies))” or
25 any other name or names confusingly similar or derivative thereof;

26 D. From promotional activities or advertising, television, radio, internet or any
27 print or non-print media undertaken and commissioned using the name “The Platters” or
28 any other name or names confusingly similar or derivative thereof;

1 E. From infringing upon the goodwill associated with any of Plaintiffs' names
2 or service marks, or otherwise using the name "The Platters," or any other name or names
3 confusingly similar or derivative thereof;

4 F. From infringing or otherwise using the name "The Platters" or any other
5 name confusingly similar thereof, in any manner, including, but not limited to, advertising,
6 promoting or licensing the performance of any group or individual that infringes upon
7 Plaintiffs' marks or derivatives thereof;

8 G. From engaging in any conduct, including the advertisement, promotion,
9 performance or licensing of any performance or performers using the name "The Platters"
10 or any other name confusingly similar thereof, that tends to falsely represent, or is likely to
11 confuse, mislead, or deceive purchasers of Plaintiffs' services, Plaintiffs' customers,
12 Plaintiffs' promoters, or members of the public to believe that Defendants are sponsored,
13 approved or licensed by Plaintiffs or anyone else, or are in some way associated, affiliated
14 or connected with the Plaintiffs or "The Platters,"

15 H. From diluting and infringing the trade name "The Platters" or damaging
16 Plaintiffs' goodwill, reputation, and business or otherwise competing unfairly with
17 Plaintiffs in any manner;

18 I. From using or permitting or acquiescing in the use by others of any
19 unauthorized licensing, promotional and advertising material, agreements, labels,
20 announcements, signs, and any other unauthorized items which reproduce, copy, imitate,
21 or bear the trade name "The Platters" or any other confusingly similar or derivative
22 thereof;

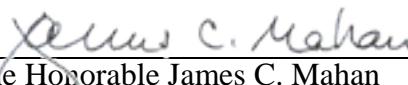
23 J. From asserting that either FPI or PPI have, or ever had, rights at common
24 law or otherwise in the name "The Platters;" and

1 K. From effecting assignments or transfers, forming new entities or
2 associations, or utilizing any other means for the purpose of circumventing or otherwise
3 avoiding the prohibitions of this Order.

4 **IT IS FURTHER ORDERED, ADJUGED AND DECREED** that Plaintiffs Herb Reed
5 Enterprises, Inc., Herb Reed Enterprises, LLC and Herbert Reed are hereby permitted to seek their
6 attorneys' fees and costs, in an amount as determined after submission of an affidavit of fees and
7 costs that complies with the provisions of Local Rule 54-16.

8 **IT IS ALSO ORDERED, ADJUGED AND DECREED** that that Jurisdiction of this case
9 shall be retained by this Court for the purpose of enforcing this Judgment.

10 Dated: May 16, 2011

11 
12 The Honorable James C. Mahan
13 United States District Judge

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28